

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 10 of 19

REMARKS

Claims 1-39 are pending. Claims 1-39 stand rejected under 35 U.S.C. §112 as being indefinite. Claims 1, 4, 6, 29, 32, 34, 36 and 39 stand rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent No. 61-249850 to Kazama ("Kazama"). Claims 2, 3, 5, 7-28, 30, 31, 33, 35, 37 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kazama in view of U.S. Patent No. 6,102,464 to Schneider et al. ("Schneider").

Applicants respectfully traverse the rejections under §112, §102 and §103 for at least the reasons set forth below.

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 11 of 19

§112 Rejections Are Overcome

The Final Action states that the term "substantially less" in Claims 1, 9, 18, 23 and 36-39 is a relative term and renders the claims indefinite. Applicants traverse the rejection because it is clear what is meant by this term by reading Applicants' specification and by viewing the drawings. For example, Figs. 2, 4 and 5 from Applicants' application are set forth below and clearly illustrate that, in each respective embodiment, a rigid member has a width that is substantially less than a width and length of the floor mat.

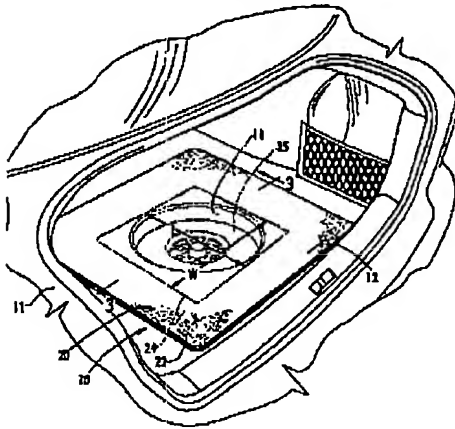


FIG. 2

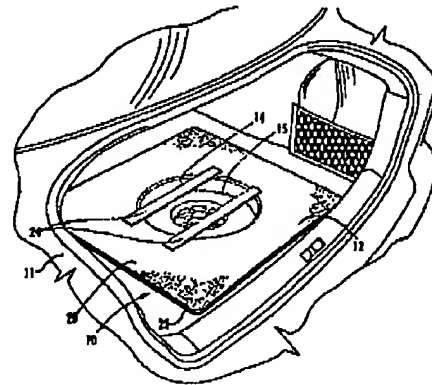


FIG. 4

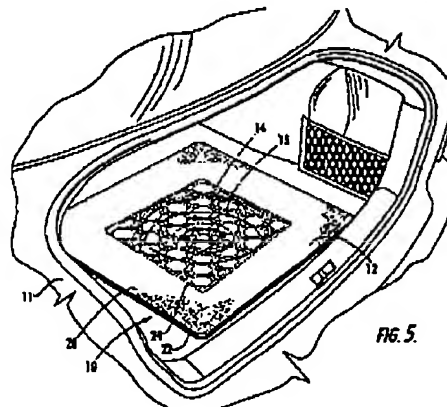


FIG. 5

For example, in the illustrated embodiment of Fig. 2, the rigid member 24 has a width W and a length L that is sufficient to span the recessed spare tire storage compartment 14. As can be seen clearly, W and L are substantially less than the width and length of the floor mat 20.

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 12 of 19

Notwithstanding the above, Applicants have amended Claims 1, 9, 18, 23, 29 and 36-39, as indicated above, to remove the term "substantially" with respect to the dimensions of the respective rigid members in order to place the claims in better condition for appeal. As such, the rejections under 35 U.S.C. §112 are overcome.

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 13 of 19

§102 Rejections Are Overcome

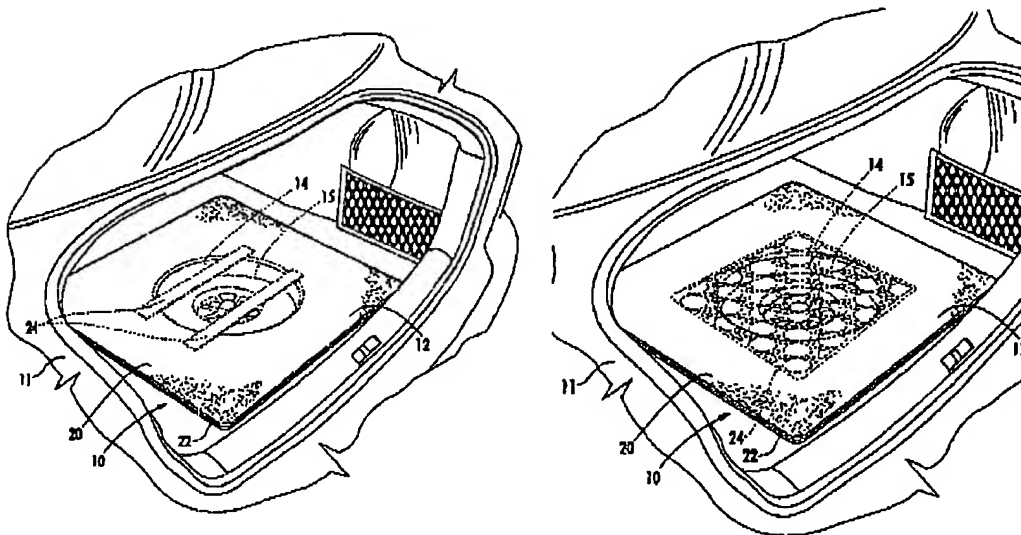
A claim is anticipated under 35 U.S.C. §102 if each claimed element is found in a single prior art reference. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991); *Carella v. Starlight Archery and Pro Line Co.*, 804 F.2d 135, 138 (Fed. Cir. 1986). There must be no difference between the claimed invention and the reference disclosure, as viewed by an ordinary artisan. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d at 1576.

Applicants' amended independent Claim 1 recites a vehicle floor mat, comprising:

a pliable layer configured to overlie an area of a vehicle floor; and
a rigid member attached to a portion of the pliable layer, wherein the *rigid member has a width less than a width and length of the pliable layer*, but sufficient to span a recessed portion in the vehicle floor area such that the pliable layer is rendered substantially non-pliable above the recessed portion, and such that the floor mat is *self-supporting* and can *independently support* a load placed thereon above the recessed portion, *without any external support from within the recessed portion*.

Claims 9, 18, 23, 29 and 36-39 contain similar recitations.

As illustrated in all of the embodiments of Applicants' invention, a rigid member has a width that is substantially less than any dimension of a respective pliable layer attached thereto. Figs. 4 and 5 from Applicants' application are set forth below and clearly illustrate and provide support for this.



In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 15 of 19

21b, and is set on a rail **25** on a floor side box **25** in a suspended condition. The front and rear boards **21a**, **21b** are formed so that the board **21** is lower at its front side and higher at its rear side, and are jointed together with no gap therebetween to form a single plate-like structure. Further, they are arranged to form a guide mechanism **33** which allows the rear board **21b** to move below the front board **21** when the rear board **21b** receives a load from the rear side of the vehicle. With this arrangement, in addition to absorbing loads, it is possible to prevent the rear board from bouncing. (Kazama, Abstract)

Kazama fails to describe a vehicle floor mat that includes a pliable layer configured to overlie an area of a vehicle floor, and a rigid member attached to a portion of the pliable layer, wherein the rigid member has a width less than a width and length of the pliable layer, but sufficient to span a recessed portion in the vehicle floor area such that the pliable layer is rendered substantially non-pliable above the recessed portion, and such that the floor mat is self-supporting and can independently support a load placed thereon above the recessed portion, without any external support from within the recessed portion. As viewed by the ordinary artisan, there is a great difference between Applicants' mat as claimed in independent Claim 1 and the Kazama floor board structure. Because Kazama does not disclose all of the recited elements of independent Claim 1, Claim 1 and all claims depending therefrom are not anticipated by Kazama. For at least the same reasons, independent Claims 18, 23, 29 and 36-39, and all claims depending therefrom, are not anticipated by Kazama.

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 16 of 19

§103 Rejections Are Overcome

A determination under §103 that an invention would have been obvious to someone of ordinary skill in the art is a conclusion of law based on fact. *Panduit Corp. v. Dennison Mfg. Co.* 810 F.2d 1593, 1 U.S.P.Q.2d 1593 (Fed. Cir. 1987), *cert. denied*, 107 S.Ct. 2187. After the involved facts are determined, the decision maker must then make the legal determination of whether the claimed invention as a whole would have been obvious to a person having ordinary skill in the art at the time the invention was unknown, and just before it was made. *Id.* at 1596. The United States Patent and Trademark Office (USPTO) has the initial burden under § 103 to establish a *prima facie* case of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

To establish a *prima facie* case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. § 2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. § 2143.01(citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)). As emphasized by the Court of Appeals for the Federal Circuit, to support combining references, evidence of a suggestion, teaching, or motivation to combine must be **clear and particular**, and this requirement for clear and particular evidence is not met by broad and conclusory statements about the teachings of references. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Court of Appeals for the Federal Circuit also has stated that, to support combining or modifying references, there must be **particular** evidence from the prior art as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed. *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000).

Furthermore, as stated by the Federal Circuit with regard to the selection and combination of references:

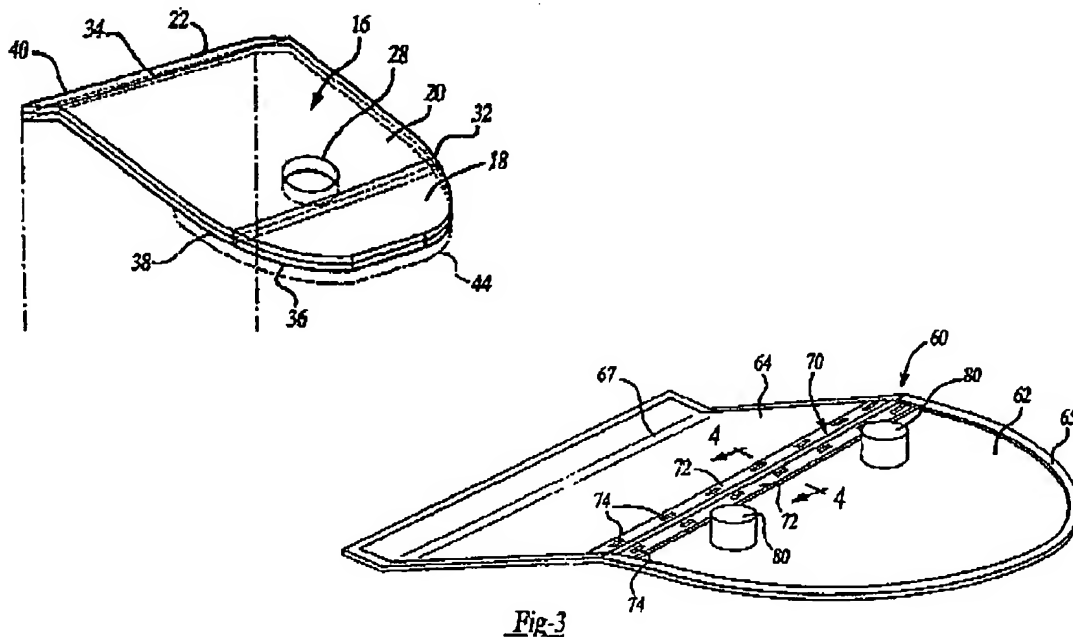
This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority. It is improper, in determining

In re: Putt et al.
 Serial No.: 10/797,775
 Filed: March 10, 2004
 Page 17 of 19

whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." W.L. Gore v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). Thus the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion....

In re Sang Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002).

The secondary reference, Schneider, describes a spare tire storage compartment cover that has at least two sections joined by a living hinge. Schneider does not describe or suggest a vehicle floor mat. Moreover, in each of the embodiments of Schneider, the rigid panels of the spare tire cover (e.g., 36, 38, 40 in Fig. 1, and 62, 64 in Figs. 3-4) extend all the way to the periphery of the spare tire cover in all directions. Fig. 1 and Fig. 3 of Schneider are set forth below.



Clearly, none of the rigid panels in Schneider have a width that is substantially less than a width or length of the spare tire cover.

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 18 of 19

The combination of Kazama and Schneider fails to teach or suggest a vehicle floor mat. Applicants do not understand how two references that individually fail to teach or suggest a vehicle floor mat can be combined to teach a vehicle floor mat.

Furthermore, the combination of Kazama and Schneider fails to teach or suggest a vehicle floor mat that includes a pliable layer configured to overlie an area of a vehicle floor, and a rigid member attached to a portion of the pliable layer, wherein the rigid member has a width less than a width and length of the pliable layer, but sufficient to span a recessed portion in the vehicle floor area such that the pliable layer is rendered substantially non-pliable above the recessed portion, and such that the floor mat is self-supporting and can independently support a load placed thereon above the recessed portion, without any external support from within the recessed portion. As such, independent Claim 1 and all claims depending therefrom are not rendered obvious by Kazama or Schneider, alone or in combination. For at least the same reasons, independent Claims 18, 23, 29 and 36-39, and all claims depending therefrom, are not rendered obvious by Kazama or Schneider, alone or in combination.

The Final Action concedes that Kazama fails to disclose rigid members comprising a plurality of spaced-apart apertures formed therethrough, as recited in Applicants' Claims 7, 15, 18-20, 22, 28 and 35. However, the Final Action concludes that it would be obvious to one of ordinary skill in the art to include a plurality of spaced-apart apertures because of the motivation to reduce the weight of the floor mat and therefore increase the fuel efficiency of the vehicle. (Final Action, Page 5). The Final Action provides no clear and particular evidence from either Kazama or Schneider for this conclusion. In fact neither Kazama nor Schneider teaches or suggests rigid members having a plurality of spaced-apart apertures. Moreover, nothing in either Kazama or Schneider teaches or suggests that it would be desirable to reduce the weight of the floor board structure (Kazama) or cover elements (Schneider). Weight does not appear to be of concern based upon the design of either the Kazama floor board structure or the Schneider cover because no alternative materials that are specifically described as being lighter are suggested or described and because no alternative configurations of the floor board structure (Kazama) or cover elements (Schneider) are suggested or described. As such, one skilled in the art would not be motivated based upon the teachings of either Kazama or

In re: Putt et al.
Serial No.: 10/797,775
Filed: March 10, 2004
Page 19 of 19

Schneider to modify the Kazama floor board structure or the Schneider cover elements by forming apertures therein. Accordingly, Applicants respectfully request withdrawal of the present rejections of Claims 7, 15, 18-20, 22, 28 and 35 under 35 U.S.C. §103.

In view of the above, it is respectfully submitted that this application is in condition for allowance, which action is respectfully requested.

Respectfully submitted,



Needham J. Boddie, II
Attorney for Applicants
Registration No. 40,519

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec, P.A.
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Doc. No. 478539

CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office on December 19, 2005 via facsimile number 571-273-8300.



Erin A. Campion